

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FRED ROYBAL and LORRAINE ROYBAL,

Plaintiffs,

AND

Civ. No. 07-332 BB/RHS

DANIEL GARCIA; GABRIEL SANDOVAL;
MELANIE SANDOVAL; and TIFFANY LEE,
Individually and on behalf of her minor children,
BENJAMIN LEE and AARON LEE; IVAN LEE;
LEVI MAES; AND TERESA MAES, Individually
and on behalf of her minor children, LEVI MAES,
JR., and NIKOLAI MAES; and MISTI JONES,
Individually and on behalf of her minor children,
THERON JONES and ELYSIUM JONES,

Intervenors,

vs.

ARROW TRUCKING COMPANY, INC., and
ERIC DUBACH,

Defendants.

REPORT AND RECOMMENDATION

THIS MATTER comes before the Court on the Joint Motion for Approval of Minor Settlements [docket no. 301]. The Court set the matter for an evidentiary fairness hearing on Friday, January 9, 2009, at 3:00 p.m. Thereafter, having considered all of the pleadings on file in the above-captioned cause together with the arguments and authorities propounded by counsel for the respective parties and the evidence and testimony presented at hearing, the Court FINDS:

1. The Court has jurisdiction over the parties and venue is proper in the United States District Court for the District of New Mexico.

2. The incident which is the subject of this litigation occurred on or about February 4, 2007, in Albuquerque, New Mexico.

3. At the time of the incident, Theron Jones was a minor and under the age of majority.

4. At the time of the incident, Elysium Jones was a minor and under the age of majority.

5. The parties have now agreed to settle all claims against the Defendants for any or all causes of action, claims, and demands of whatsoever kind or nature on account of all known and unknown losses, damages, labor and materials charges, punitive damages, interest, attorneys fees and costs which allegedly were sustained and claimed by Theron Jones and Elysium Jones as a result of, arising from, or in any way connected with the issues raised, or that could have been raised, in Case Number Civ. 07-00332 BB/RHS filed in the United States District Court for the District of New Mexico.

6. The parties have agreed that in full and complete consideration of the minor settlement, Defendants will do the following:

A. Pay directly to Misti Jones as custodial parent and next friend of Theron Jones, a minor, the total sum of Eight Hundred Dollars (\$800.00).

B. Pay directly to Misti Jones as custodial parent and next friend of Elysium Jones, a minor, the total sum of Eight Hundred Dollars (\$800.00).

C. The minors understand and acknowledge that upon approval of this proposed settlement, the Defendants shall disburse the settlement funds to the minors in a total of One Thousand Six Hundred Dollars (\$1,600.00) in a manner set forth above.

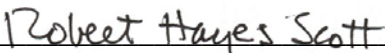
7. The Court does not find or conclude that a guardian ad litem is necessary to serve as the eyes and the ears of the Court, given the amount to be paid in settlement.

8. Misti Jones has been advised and cautioned, as custodial parent of the two minor children, that the sums being paid to the minor children are to be considered theirs and to be held and protected in their best interests as Misti Jones may deem fit and appropriate under the circumstances.

9. That the minor settlement as provided herein is in the best interests of the minor children and should be approved by the Court.

Recommendation

The undersigned hereby recommends that the Joint Motion for Approval of Minor Settlements [docket no. 301] be granted and that the Court approve the minor settlement reached by and between the parties relative to Theron Jones and Elysium Jones, minors, and that their respective claims against the Defendants be dismissed with prejudice.



ROBERT HAYES SCOTT
UNITED STATES MAGISTRATE JUDGE